



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMse12061304
[REDACTED]

[REDACTED]
Complainant,

v.

AMERICAN HEATING AND COOLING,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(b)

On June 21, 2012, [REDACTED] ("Complainant") filed a Complaint with the Commission against American Heating and Cooling ("Respondent") alleging sexual harassment in violation of [REDACTED] the Indiana Civil Rights Law (Ind. Code § 22-9, *et. seq.*) Accordingly, the Indiana Civil Rights Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have been given the opportunity to submit evidence. Based upon a full review of the relevant files and records and the final investigative report, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was subjected to sexual harassment by her supervisor and ultimately terminated when she refused his advances. In order to prevail, Complainant must show that: (1) she was asked by a superior for sexual favors in exchange for retaining her job; (2) she refused the solicitations; and (3) she suffered an adverse employment action as a result of refusing her superior's solicitations.

Complainant alleges that Respondent's owner ran his hands over her buttocks and breasts as well as told Complainant that he had an erect penis, ultimately exposing himself to her. Further evidence shows that the owner asked Complainant "would you give me a hard on and then let me raise hell with you?" Complainant maintains that she rejected the sexual solicitations and was ultimately terminated from employment when she refused them. While Respondent



contends that Complainant was laid off due to her absences from work, Complainant alleges that she missed work because of the sexual harassment she was experiencing at the hands of Respondent. The available evidence suggests that Respondent's reason for her termination is unworthy of credence and may amount to pretext for unlawful discrimination based upon her unwillingness to give into his sexual harassment. Based upon the above findings, probable cause exists to believe that an unlawful discriminatory practice may have occurred.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission, or the Commission's Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6

February 28, 2013
Date

Akia Haynes
Akia A. Haynes, Esq.
Deputy Director
Indiana Civil Rights Commission